

567—218.8(455D) Abatement fund priorities. The department may use the abatement fund to abate any nuisance created by waste tires at a stockpile site. The department shall follow the criteria in rule 218.9(455D) and the priorities set forth in this rule for determining which sites shall be subject to abatement.

218.8(1) Primary use.

a. First priority for the department's use of the abatement fund shall be to issue contracts for the removal or processing of all waste tires that can be reasonably recovered from stockpile sites determined by the department to be a nuisance. For this purpose the department may use funds for abating stockpile sites including, but not limited to, the following:

(1) A stockpile site for which the owner or operator has failed to apply for or obtain waste tire processing or storage permit;

(2) A stockpile site where the owner or operator has failed to remove the waste tires as required by the department;

(3) A permitted waste tire collection site if the permittee fails to meet the conditions of such permit;

(4) A permitted waste tire processing site where the owner or operator has ceased processing waste tires.

b. Abatement activities related to this subrule shall require the owner or operator of the site to enter into a letter of agreement or contract with the department, or to comply with an abatement order issued by the department, any of which shall include the stipulation that the site will no longer be used for collecting, storing or processing waste tires.

c. Procedures for using abatement funds for projects referenced in this subrule are described in rule 218.10(455D).

218.8(2) Secondary use. In using the abatement fund, the department may consider issuing a contract for the purpose of abating a nuisance that has caused a permittee of a waste tire processing site to be in noncompliance with the conditions of the facility's permit. In such cases, it is the intention of the permittee to continue processing waste tires at the site, and the extent of the abatement would be only to process or remove a quantity of waste tires sufficient to mitigate the conditions that caused the site to be in noncompliance. The procedure for using the abatement fund for such projects is described in rule 218.11(455D).